

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

DUKHAN MUMIN,

Petitioner,

vs.

DOUGLAS COUNTY, NEBRASKA,
and STATE OF NEBRASKA,

Respondents.

8:18CV271

**MEMORANDUM
AND ORDER**

This matter is before the court on the Notice of Appeal ([filing no. 18](#)) filed by Petitioner Dukhan Mumin on February 22, 2019. Petitioner appeals from the court's Memorandum and Order dated February 5, 2019, summarily denying his "Request for Relief from Judgment as an Independent Action Pursuant to [Fed. R. Civ. Pro. Rule 60\(d\)\(1\)](#)" which the court construed as a motion. ([Filing No. 17.](#)) Also before the court is a memorandum from the Clerk of the Court requesting a ruling as to Petitioner's authorization to proceed in forma pauperis on appeal. ([Filing No. 19.](#))

Petitioner has failed to include the \$505.00 appellate filing and docket fees. A litigant seeking to appeal a judgment must either pay the required filing fees, *see* [Fed. R. App. P. 3\(e\)](#), or proceed in forma pauperis pursuant to [28 U.S.C. § 1915\(a\)](#). "An appeal may not be taken in forma pauperis if the trial court certifies in writing that it is not taken in good faith." [28 U.S.C. § 1915\(a\)\(3\)](#). The court hereby certifies that the appeal filed by Petitioner in this case is frivolous and not taken in good faith for the reason that the court denied his "Request for Relief from Judgment as an Independent Action Pursuant to [Fed. R. Civ. Pro. Rule 60\(d\)\(1\)](#)" because the claims raised in his request were wholly unrelated to the conviction at issue in the present matter. Since the appeal is not taken in good faith, Petitioner

cannot file an appeal in forma pauperis. See [Fed. R. App. P. 24\(a\)\(3\)](#) and [28 U.S.C. § 1915\(a\)\(3\)](#).

IT IS THEREFORE ORDERED that Petitioner may not proceed on appeal in forma pauperis.

Dated this 5th day of March, 2019.

BY THE COURT:

s/ Richard G. Kopf
Senior United States District Judge